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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 12th September, 1986/Bhadra 21, 1908 (Saka)

The following Act of Parliament received the assent of the President on the 10th September, 1986, and is hereby published for general information:—

THE TAXATION LAWS (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT, 1986

No. 46 OF 1986

[10th September, 1986.]

An Act further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and to provide for exemption to a Government company from income-tax and surtax for a specified period.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986.

(2) Save as otherwise provided in this Act, it shall come into force at once.

Short
title
and com-
mencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amend-
ment of
section 2.

2. In section 2 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), after clause (10), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

43 of 1961.

“(11) “block of assets” means a group of assets falling within a class of assets, being buildings, machinery, plant or furniture, in respect of which the same percentage of depreciation is prescribed;”.

Amend-
ment of
section 10.

3. In section 10 of the Income-tax Act, for clause (17), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1986, namely:—

“(17) any income by way of—

(i) daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof; and

(ii) all other allowances not exceeding rupees twelve hundred and fifty per month in the aggregate received by any person by reason of his membership of Parliament or of any Committee thereof, or all other allowances not exceeding rupees six hundred per month in the aggregate received by any person by reason of his membership of any State Legislature or any Committee thereof, which the Central Government may, by notification in the Official Gazette, specify in this behalf;”.

Amend-
ment of
section
10A.

4. In section 10A of the Income-tax Act, with effect from the 1st day of April, 1987,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of any five consecutive assessment years, falling within a period of eight years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, specified by the assessee at his option:

Provided that nothing in this sub-section shall be construed to extend the aforesaid five assessment years to cover any period after the expiry of the said period of eight years.”;

(b) in sub-section (7), the words “for the initial assessment year” shall be omitted;

(c) in the *Explanation* occurring at the end, for clause (ii), the following clause shall be substituted, namely:—

“(ii) “relevant assessment years” means the five consecutive assessment years specified by the assessee at his option under sub-section (3).

5. In section 32 of the Income-tax Act, with effect from the 1st day of April, 1988,—

Amend-
ment of
section 32.

(1) in sub-section (1),—

(a) clause (i) shall be omitted;

(b) in clause (ii),—

(i) for the opening paragraph, the following shall be substituted, namely:—

“In the case of any block of assets, such percentage on the written down value thereof as may be prescribed;”;

(ii) in the second proviso, the words, brackets and figures “or clause (iii)” shall be omitted;

(iii) after the second proviso, the following *Explanations* shall be inserted, namely:—

Explanation 1.—Where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of this clause shall apply as if the said structure or work is a building owned by the assessee.

Explanation 2.—For the purposes of this clause “written down value of the block of assets” shall have the same meaning as in clause (c) of sub-section (6) of section 43;”;

(c) clauses (iia), (iii), (iv), (v) and (vi) shall be omitted;

(2) sub-section (1A) shall be omitted;

(3) in sub-section (2), for the words, brackets, figures and letters “under clause (i) or clause (ii) or clause (iia) or clause (iv) or clause (v) or clause (vi) of sub-section (1) or under clause (i) of sub-section (1A)”, the words, brackets and figures “under clause (ii) of sub-section (1)” shall be substituted.

6. In section 34 of the Income-tax Act, sub-sections (1) and (2) shall be omitted with effect from the 1st day of April, 1988.

Amend-
ment of
section 34.

7. In section 41 of the Income-tax Act, with effect from the 1st day of April, 1988.—

Amend-
ment of
section 41.

(a) sub-sections (2) and (2A) and the *Explanations* thereunder shall be omitted;

(b) in sub-section (4), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Explanation.—For the purposes of sub-section (3),—

(1) “moneys payable” in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company.;

(c) in sub-section (5), the words, brackets, figures and letter "sub-section (2), sub-section (2A)," shall be omitted.

Amend-
ment of
section 43.

8. In section 43 of the Income-tax Act, with effect from the 1st day of April, 1988—

(i) in clause (1),—

(a) in *Explanation 1*, for the words, brackets, figures and letter "clause (i), clause (ii) or clause (iii) of sub-section (1) or sub-section (1A)", the words, brackets and figures "clause (ii) of sub-section (1)" shall be substituted;

(b) for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

'Explanation 2.—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the actual cost to the previous owner, as reduced by—

(a) the amount of depreciation actually allowed under this Act and the corresponding provisions of the Indian Income-tax Act, 1922 in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets.;

(c) for *Explanation 4*, the following *Explanation* shall be substituted, namely:—

"Explanation 4.—Where any asset which had once belonged to the assessee and had been used by him for the purposes of

his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be—

(i) the actual cost to him when he first acquired the asset as reduced by—

(a) the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922, in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets; or

(ii) the actual price for which the asset is re-acquired by him,

whichever is less.”;

(ii) in clause (6),—

(a) after the proviso, the following clause shall be inserted, namely:—

“(c) in the case of any block of assets,—

(i) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year and adjusted,—

(A) by the increase by the actual cost of any asset falling within that block, acquired during the previous year; and

(B) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and

(ii) in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1989, the written down value of that block of assets in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by the increase or the reduction referred to in item (i).”;

(b) in *Explanation 1*, for the words “any asset”, the words “any asset or any block of assets” shall be substituted;

11 of 1922.

(c) for *Explanations 2 and 2A*, the following *Explanation* shall be substituted, namely:—

“*Explanation 2.*—Where in any previous year, any block of assets is transferred,—

(a) by a holding company to its subsidiary company or by a subsidiary company to its holding company and the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied; or

(b) by the amalgamating company to the amalgamated company in a scheme of amalgamation, and the amalgamated company is an Indian company,

then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the transferee company or the amalgamated company, as the case may be, shall be the written down value of the block of assets as in the case of the transferor company or the amalgamating company for the immediately preceding previous year as reduced by the amount of depreciation actually allowed in relation to the said preceding previous year.”;

(d) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

“*Explanation 4.*—For the purposes of this clause, the expressions “moneys payable” and “sold” shall have the same meanings as in the *Explanation* below sub-section (4) of section 41.”

9. For section 50 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

“50. Notwithstanding anything contained in clause (42A) of section 2, where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed under this Act or under the Indian Income-tax Act, 1922, the provisions of sections 48 and 49 shall be subject to the following modifications:—

(1) where the full value of the Consideration received or accruing as a result of the transfer of the asset together with the full value of such consideration received or accruing as a result of the transfer of any other capital asset falling within the block of assets during the previous year, exceeds the aggregate of the following amounts, namely:—

(i) expenditure incurred wholly and exclusively in connection with such transfer or transfers;

(ii) the written down value of the block of assets at the beginning of the previous year; and

(iii) the actual cost of any asset falling within the block of assets acquired during the previous year,

Substitution of new section for section 50.

Special provision for computation of capital gains in case of depreciable assets.

11 of 1922.

such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets;

(2) where any block of assets ceases to exist as such, for the reason that all the assets in that block are transferred during the previous year, the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the previous year, as increased by the actual cost of any asset falling within that block of assets acquired by the assessee during the previous year and the income received or accruing as a result of such transfer or transfers shall be deemed to be the capital gains arising from the transfer of short-term capital assets.”.

10. In section 80HH of the Income-tax Act, for the *Explanation* below sub-section (10), the following sub-section shall be substituted, namely:—

Amend-
ment of
section
80HH.

“(11) For the purposes of this section, “backward area” means such area as the Central Government may, having regard to the stage of development of that area, by notification in the Official Gazette, specify in this behalf:

Provided that any notification under this sub-section may be issued so as to have retrospective effect to a date not earlier than the 1st day of April, 1983.’.

11. In section 80HHC of the Income-tax Act, with effect from the 1st day of April, 1987,—

Amend-
ment of
section
80HHC.

(a) in sub-section (1), for the portion beginning with the words “deduction of an amount” and ending with the words “Provided that”, the following shall be substituted, namely:—

“deduction equal to the aggregate of—

(a) four per cent. of the net foreign exchange realisation; and

(b) fifty per cent. of so much of the profits derived by the assessee from the export of such goods or merchandise as exceeds the amount referred to in clause (a):

Provided that the deduction under this sub-section shall not exceed the profits derived by the assessee from the export of such goods or merchandise:

Provided further that”;

(b) after sub-section (3) and before the *Explanation*, the following sub-section shall be inserted, namely:—

“(4) The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the amount of net foreign exchange realisation as determined in accordance with the Import and Export Policy of the Government of India for the relevant period.”;

(c) after clause (b) of the *Explanation*, the following clause shall be inserted, namely:—

‘(c) “net foreign exchange realisation” means the total free on board value of exports out of India of goods and merchandise, to which this section applies as reduced by the aggregate of the cost, insurance and freight value of all categories of import licences, to be issued by the Chief Controller of Imports and Exports, Government of India, to which the assessee is entitled during the previous year, either against export obligation or against exports as replenishments.’

Amend-
ment
of section
139.

12. In section 139 of the Income-tax Act,—

(a) in sub-section (3), for the portion beginning with the words “within such further time” and ending with the words “in his discretion, allow”, the following shall be substituted with effect from the 1st day of April, 1987, namely:—

“by the thirty-first day of July of the assessment year relevant to the previous year during which the loss was sustained”;

(b) after sub-section (9), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1986, namely:—

“(10) Notwithstanding anything contained in any other provision of this Act, a return of income which shows the total income below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished:

Provided that nothing hereinbefore contained shall apply to,—

(a) a return furnished in response to a notice under sub-section (2) or section 148;

(b) a return of a partner of a firm;

(c) a return of a person who has claimed exemption of income from property held for charitable or religious purposes;

(d) a return of loss which has been furnished before the thirty-first day of July of the assessment year relevant to the previous year during which the loss was sustained;

(e) a return furnished under sub-section (4B) in respect of a political party; and

(f) a return furnished in support of a claim for refund under section 237.”

Amend-
ment
of section
22.

13. In section 220 of the Income-tax Act, in sub-section (2A),—

(a) in the opening portion, for the words “the Board may” and “on the recommendation made by the Commissioner in this behalf, it is satisfied”, the words “the Commissioner may” and “he is satisfied” shall, respectively, be substituted with effect from the 1st day of April, 1987;

(b) for the words "interest payable by an assessee", "would cause genuine hardship" and "interest was payable", the words "interest paid or payable by an assessee", "has caused or would cause genuine hardship" and "interest has been paid or was payable" shall, respectively, be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1984.

14. In section 221 of the Income-tax Act, in sub-section (1), for the second proviso, the following proviso shall be substituted, namely:—

Amend-
ment
of section
221.

"Provided further that where the assessee proves to the satisfaction of the Income-tax Officer that the default was for good and sufficient reasons, no penalty shall be levied under this section."

15. In section 245B of the Income-tax Act,—

Amend-
ment
of section
245B.

(a) in sub-section (2), for the words "and two other members", the words "and as many Vice-Chairmen and other members as the Central Government thinks fit" shall be substituted;

(b) sub-section (2A) shall be omitted;

(c) in sub-section (3),—

(i) in the opening portion, after the word "Chairman", the word "Vice-Chairmen" shall be inserted;

(ii) in the first proviso, after the word "Chairman", the word "Vice-Chairman" shall be inserted;

(iii) the second proviso shall be omitted.

16. In section 245D of the Income-tax Act, sub-section (5) shall be omitted.

Amend-
ment
of section
245D.

17. In section 245F of the Income-tax Act, for sub-section (5), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section
245F.

"(5) The powers or functions of the Settlement Commission may be exercised or discharged by Benches constituted by the Chairman of the Settlement Commission from amongst the members thereof.

(6) A Bench constituted under sub-section (5) shall consist of three members, one of whom shall be the Chairman or a Vice-Chairman.

(7) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings."

18. In section 270 of the Income-tax Act, the words "without reasonable excuse" shall be omitted.

Amend-
ment of
section
270.

19. In section 271 of the Income-tax Act, in sub-section (1),—

(a) the words "without reasonable cause", wherever they occur, shall be omitted;

Amend-
ment of
section
271.

(b) in *Explanation 1*,—

(i) in clause (B), for the words “not able to substantiate,” the words “not able to substantiate and fails to prove that such explanation is bona fide and that all the facts relating to the same and material to the computation of his total income have been disclosed by him,” shall be substituted;

(ii) the proviso shall be omitted;

(c) in *Explanation 5*, for the portion beginning with the words “unless such income is” and ending with the words “before the said date”, the following shall be substituted, namely:—

“unless,—

(1) such income is, or the transactions resulting in such income are recorded,—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date,

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Commissioner before the said date; or

(2) he, in the course of the search, makes a statement under sub-section (4) of section 132 that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control, has been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of time specified in clause (a) or clause (b) of sub-section (1) of section 139, and also specifies in the statement the manner in which such income has been derived and pays the tax, together with interest if any, in respect of such income.”

Amend-
ment of
section
271A.

20. In section 271A of the Income-tax Act, the words “, without reasonable cause,” shall be omitted.

Amend-
ment of
section
271B.

21. In section 271B of the Income-tax Act, the words “, without reasonable cause,” shall be omitted.

Amend-
ment of
section
272A.

22. In section 272A of the Income-tax Act, in sub-section (2), the words “, without reasonable cause or excuse,” shall be omitted.

Amend-
ment of
section
272AA.

23. In section 272AA of the Income-tax Act, in sub-section (F), the words “, without reasonable cause,” shall be omitted.

Amend-
ment of
section
272B.

24. In section 272B of the Income-tax Act, in sub-section (1), the words “, without reasonable cause,” shall be omitted.

25. In section 273 of the Income-tax Act, the words "without reasonable cause", wherever they occur, shall be omitted.

Amendment of section 273.

26. After section 273A of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 273B.

"273B. Notwithstanding anything contained in the provisions of section 270, clause (a) or clause (b) of sub-section (1) of section 271, section 271A, section 271B, sub-section (2) of section 272A, sub-section (1) of section 272AA, sub-section (1) of section 272B or clause (b) of sub-section (1) or clause (b) or clause (c) of sub-section (2) of section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure."

Penalty not to be imposed in certain cases.

27. In sections 276A, 276AB, 276B, 276DD and 276E, the words without reasonable cause or excuse," shall be omitted.

Amendment of sections 276A, 276AB, 276B, 276DD and 276E.

28. After section 278A of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 278AA.

"278AA. Notwithstanding anything contained in the provisions of section 276A, section 276AB, section 276B, section 276DD or section 276E, no person shall be punishable for any failure referred to in the said provisions if he proves that there was reasonable cause for such failure."

Punishment not to be imposed in certain cases.

29. In the Income-tax Act, after section 278D, the following section shall be inserted, namely:—

Insertion of new section 278E.

'278E. (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Presumption as to culpable mental state.

Explanation.—In this sub-section, "culpable mental state" includes intention, motive or knowledge of a fact, or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Omission
of the
Eighth
Schedule.

30. In the Income-tax Act, the Eighth Schedule shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984.

Omission
of the
Ninth
Schedule.

31. In the Income-tax Act, the Ninth Schedule shall be omitted with effect from the 1st day of April, 1988.

Conse-
quential
amend-
ments.

32. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act with effect from the 1st day of April, 1988, namely:—

(a) in section 32A, in sub-section (2), in the *Explanation*, for clause (1), the following clause shall be substituted, namely:—

'(1) (a) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(b) "new machinery or plant" includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely:—

(i) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(ii) such machinery or plant is imported into India from any country outside India; and

(iii) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.'

11 of 1922.

(b) in section 35,—

(1) in sub-section (2),—

(i) in clause (iv), for the words, brackets, figures and letters "clauses (i), (ii), (iia), (iii) and (iv) of sub-section (1) or under sub-section (1A)", the words, brackets and figures "clause (ii) of sub-section (1)" shall be substituted;

(ii) in clause (v), for the words, brackets and figures "clauses (i), (ii) and (iii) of sub-section (1)", the words, brackets and figures "clause (ii) of sub-section (1)" shall be substituted;

(2) in sub-section (2B), in clause (c), for the words, brackets, figures and letters "clauses (i), (ii), (iia) and (iii) of sub-section (1) or under sub-section (1A)", the words, brackets and figures "clause (ii) of sub-section (1)" shall be substituted;

(c) in section 38, in sub-section (2), for the words, brackets, figures and letters "clauses (i), (ii), (iia) and (iii) of sub-section (1) and sub-section (1A)", the words, brackets and figures "clause (ii) of sub-section (1)" shall be substituted;

(d) in section 55, in sub-section (1).—

(i) for the words and figures "sections 48, 49 and 50", the words and figures "sections 48 and 49" shall be substituted;

(ii) clause (a) shall be omitted;

(e) in section 57, in clause (ii).—

(i) the brackets, figure and letter ", (1A)" shall be omitted;

(ii) for the words and figures "sections 34 and 38", the word and figures "section 38" shall be substituted;

(f) in section 59, sub-sections (2) and (3) and the *Explanation* occurring thereunder shall be omitted;

(g) in section 155, in the *Explanation* below sub-section (4A), for the words, brackets and figures "*Explanation* to clause (vi) of sub-section (1) of section 32", the words, brackets, figures and letter "*Explanation* below sub-section (2) of section 32A" shall be substituted.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

27 of 1957.

33. In section 18 of the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act),—

Amendment of section 18.

(a) the words "without reasonable cause", wherever they occur, shall be omitted;

(b) in sub-section (1).—

(i) after clause (iii) and before *Explanation 1*, the following proviso shall be inserted, namely:—

"Provided that in the cases referred to in clause (a) or clause (b), no penalty shall be imposable if the person proves that there was reasonable cause for the failure referred to in those clauses.";

(ii) in *Explanation 2*.—

(1) in clause (B), for the words "not able to substantiate", the words "not able to substantiate and fails to prove that such explanation is *bona fide* and that all the facts relating to the same and material to the computation of his net wealth have been disclosed by him," shall be substituted;

(2) the proviso shall be omitted;

(iii) in *Explanation 5*, for the portion beginning with the words "unless such assets are recorded" and ending with the

words "before the said date", the following shall be substituted, namely:—

"unless—

(1) such assets are recorded,—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date,

in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Commissioner before the said date; or

(2) he, in the course of the search, makes a statement under sub-section (4) of section 37A that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control, forms part of his net wealth which has not been disclosed so far in his return of net wealth to be furnished before the expiry of the time specified in sub-section (1) of section 14, and also specifies in the statement the manner in which such net wealth has been acquired and pays the tax, together with interest if any, in respect of such net wealth".

Amend-
ment of
section
18A.

34. In section 18A of the Wealth-tax Act, in sub-section (2),—

(i) the words " , without reasonable cause," shall be omitted;

(ii) the following proviso shall be inserted at the end, namely:—

"Provided that no penalty shall be imposable under this sub-section, if the person proves that there was reasonable cause for the said failure."

Amend-
ment of
section
22B.

35. In section 22B of the Wealth-tax Act,—

(a) in sub-section (2), for the words "and two other members", the words "and as many Vice-Chairmen and other members as the Central Government thinks fit" shall be substituted;

(b) sub-section (2A) shall be omitted;

(c) in sub-section (3),—

(i) in the opening portion, after the word "Chairman", the word " , Vice-Chairmen" shall be inserted;

(ii) in the first proviso, after the word "Chairman", the word "Vice-Chairman" shall be inserted;

(iii) the second proviso shall be omitted.

Amend-
ment of
section
22D.

36. In section 22D of the Wealth-tax Act, sub-section (5) shall be omitted.

37. In section 22F of the Wealth-tax Act, for sub-section (5), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section
22F.

"(5) The powers or functions of the Settlement Commission may be exercised or discharged by Benches constituted by the Chairman of the Settlement Commission from amongst the members thereof.

(6) A Bench constituted under sub-section (5) shall consist of three members, one of whom shall be the Chairman or a Vice-Chairman.

(7) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings."

38. In section 35EE of the Wealth-tax Act,

Amend-
ment of
section
35EE.

(i) the words "without reasonable cause or excuse," shall be omitted;

(ii) the following proviso shall be inserted at the end, namely:—

"Provided that no person shall be punishable under this section if he proves that there was reasonable cause or excuse for the said failure."

39. After section 35N of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
35-O.

35-O. (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Presump-
tion as to
culpable
mental
state.

Explanation.—In this sub-section, "culpable mental state" includes intention, motive or knowledge of a fact, or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

18 of 1958.

40. In section 17 of the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), in sub-section (1),—

Amend-
ment of
section 17.

(i) the words "without reasonable cause", wherever they occur, shall be omitted;

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that in the cases referred to in clause (a) or clause (b), no penalty shall be imposable if the person proves that there was reasonable cause for the failure referred to in those clauses.”.

Insertion
of new
section
35D.

Presump-
tion as to
culpable
mental
state.

41. In the Gift-tax Act, after section 35C, the following section shall be inserted, namely:—

‘35D. (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—In this sub-section, “culpable mental state” includes intention, motive or knowledge of a fact, or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.’.

CHAPTER V

MISCELLANEOUS

Housing
and
Urban
Develop-
ment
Corpora-
tion Ltd.
to be
exempted
for a
certain
period
from
liability
to pay
income-
tax and
surtax.

42. Notwithstanding anything contained in the Income-tax Act, 1961 or the Companies (Profits) Surtax Act, 1964, the Housing and Urban Development Corporation Ltd. (a Government company as defined in section 617 of the Companies Act, 1956) shall not be liable to pay any tax—

43 of 1961.

7 of 1964.

1 of 1956.

(a) on its income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 and for the four previous years next following that previous year; and

(b) on chargeable profits for the previous years relevant to the assessment years commencing on the 1st day of April, 1986 and the 1st day of April, 1987.

C. RAMAN MENON,

Additional Secy. to the Govt. of India.